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March 21, 1997

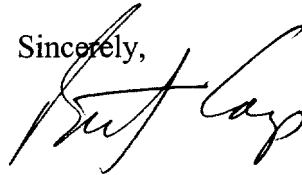
William F. Caton, Acting Secretary  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W. Room 222  
Washington, D.C. 20554

Dear Mr. Caton:

Pursuant to ¶34 of MM Docket Nos. 96-222/91-221 and 87-8. I have enclosed an original and nine copies of the Reply Comments of Time Warner Inc. I have also enclosed a diskette containing Time Warner's Reply Comments.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Bertram W. Carp

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Broadcast Television National	)	MM Docket No. 96-222
Ownership Rules	)	
	)	
Review of the Commission's Regulations	)	MM Docket No. 91-221
Governing Television Broadcasting	)	
	)	
Television Satellite Stations	)	MM Docket No. 87-8
Review of Policy and Rules	)	

REPLY COMMENTS  
OF  
TIME WARNER INC.

Bertram W. Carp  
Catherine M. Reid  
Kevin B. Kimble  
Williams & Jensen, P.C.  
1155 21st Street, NW  
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(202) 659-8201

Date: March 21, 1997

Its Attorneys

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Broadcast Television National	)	MM Docket No. 96-222
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Review of the Commission's Regulations	)	MM Docket No. 91-221
Governing Television Broadcasting	)	
	)	
Television Satellite Stations	)	MM Docket No. 87-8
Review of Policy and Rules	)	

Time Warner Inc. ("Time Warner"), by its undersigned counsel, and pursuant to the Commission's Notice of Proposed Rulemaking ("NPRM"), hereby submits its Reply Comments in the above-captioned proceeding. Time Warner's limited purpose is to comment on an aspect of the Commission's NPRM, which has received little attention from commentators thus far: the application of the national television ownership cap to the ownership of a second broadcast station in a market.

In its NPRM the Commission suggests that in the event the duopoly rules are modified, ownership of a second broadcast station in a market should not increase the calculation of audience reach for purposes of the 35% national ownership cap.<sup>1</sup>

Time-Warner recommends that, for the time being, the Commission count the second

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<sup>1</sup> See Notice of Proposed Rulemaking in MM Docket Nos. 96-222, 91-2221 and 87 - 8, FCC 96-437, ¶¶ 21-22

broadcast station for purposes of calculating the national ownership cap, pending a full review of this issue in connection with the biennial review of the broadcast ownership rules that the Commission will conduct in 1998 pursuant to the Telecommunications Act of 1996 (the "1996 Act").<sup>2</sup>

The debate and close votes on adopting the 35% cap demonstrate widespread Congressional concern with limiting the size and economic power of the major broadcast groups. An amendment to reduce the statutory cap from 35% to 25% narrowly failed in the Senate.<sup>3</sup> Under the law, a broadcast group that has reached the cap is prohibited by statute from acquiring an additional broadcast station (even a failing broadcast station) in a new market. At this point, it is not clear that the acquisition of a broadcast station in a market the group already occupies would increase the group's size and power any less.

Time-Warner also believes that the precise impact of a decision to exempt the second station from the national ownership caps will depend on future developments. For example, the outcome of the Supreme Court's consideration of the constitutionality of "must carry" requirements (and any follow-on regulation) is one such development. The final shape of the Commission's digital television (DTV) rules and accompanying "public interest" requirements is another. The precise nature of the Commission's decisions with respect to modifying the duopoly rules themselves is also an issue that must be considered. The direction of policies on broadcast-cable cross ownership and the UHF discount to be

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<sup>2</sup> Telecommunications Act of 1996, P.L. 104-104, 110 Stat 56 (1996)

<sup>3</sup> 141 Cong. Rec. S. 8247 (daily ed. June 13, 1995)

considered in 1998 clearly also are relevant.

For all these reasons, Time-Warner believes that the public interest will be served by deferring any liberalization of the national ownership cap until the 1998 proceeding.

Respectfully submitted,

By: 

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